

01/26/2024

Data Entry Dept.  
New York County Surrogate's Court

SURROGATE'S COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

Administration Proceeding, Estate of

SIMONE ENDER,

Deceased.

DECISION and ORDER  
RESCHEDULING  
HEARING and  
APPOINTING  
TEMPORARY  
ADMINISTRATOR  
File No. 2022-3699

Probate Proceeding, Estate of

SIMONE ENDER,

Deceased

File No. 2022-3699/A/B

M E L L A, S.:

Decedent Simone Ender passed away on March 7, 2022, survived by two children—Monique Ender Silberman and Brigitte Laing—owning valuable property and with significant debts and liability. In October 2022, the first estate proceeding was filed in this court, brought by an alleged creditor of decedent's estate and seeking the appointment of the Public Administrator as Administrator. In response to that petition, in December 2022, Monique Ender Silberman sought an adjournment to retain counsel.

In February 2023, an attorney filed a notice of appearance for Ms. Ender Silberman and, with the assistance of that attorney, she filed at the end of March 2023 a petition to probate a purported will of decedent and for her appointment as Executor and Preliminary Executor. Opposition to Ms. Ender Silberman's appointment as fiduciary was filed by several alleged creditors of the estate who made serious allegations concerning Ms. Ender Silberman's lack of qualifications to serve as fiduciary. Following a period of time in which, at the court's request, Ms. Ender Silberman was correcting and supplementing her filings in the probate proceeding, the court scheduled a hearing for December 12, 2023, to determine whether Ms. Ender Silberman was qualified and should be appointed Preliminary Executor (*see* SCPA 707).

On the eve of this hearing, a motion to be relieved as counsel was filed by Ms. Ender Silberman's attorney and the court held a special calendar on December 22, 2023, to hear and determine that motion. Neither Ms. Ender Silberman, who appeared in person before the court on December 22nd, nor any other party opposed the motion, though counsel to the alleged creditors expressed concern over further delays in the appointment of a fiduciary for this estate, decedent having died more than 21 months before. The court granted the motion and stayed the proceedings for 30 days to allow Ms. Ender Silberman the opportunity to retain new counsel (CPLR 321[c]). On the record, the court advised Ms. Ender Silberman that she needed to act expeditiously to retain new counsel because the hearing was being adjourned to January 25, 2024. The court's Decision and Order relieving Ms. Ender Silberman's counsel and adjourning the hearing to January 25, 2024, which issued on December 26, 2023, also contained adjusted deadlines and directions for the exchange of witness and exhibits lists prior to the hearing. That Decision and Order was emailed to Ms. Ender Silberman and directed, in part, that "All requests for an adjournment must be made in writing with the consent of all other parties who have appeared or on notice to them."

As the January 25, 2024 hearing was about to start, Ms. Ender Silberman requested an adjournment because the counsel that she had retained to represent her was unavailable, being engaged in another court at the same time. She further explained that her spouse passed away on January 1, 2024, and that it had been difficult for her to retain counsel sooner.

The court heard from all the parties regarding this adjournment request. Importantly, counsel for 860 Fifth Avenue Corporation, an alleged creditor, noted that Ms. Ender Silberman's spouse resided in a cooperative apartment (the shares allocated to which were owned by decedent), which has been sealed by the police as a result of his death there. Counsel for a judgment creditor asked the court to appoint a Temporary Administrator in view of the circumstances here, the

lengthy delay in these proceedings, as well as the constantly increasing debt of the estate – the amount of outstanding maintenance and arrears on the two cooperative apartments owned by the estate is nearly \$1 million. The other creditors joined in this request. Counsel for the Public Administrator raised no opposition.

In light of all the circumstances here, the court granted Ms. Ender Silberman’s request for an adjournment but, in view of the information on the record, determined that it was in the best interests of the estate to appoint the Public Administrator as Temporary Administrator at this time and at the very least, until the court determines whether Ms. Ender Silberman is fit to serve as fiduciary after the hearing. As noted on the record, the sealing by the police of an apartment that is an estate asset is generally sufficient for this court to appoint a fiduciary on an expedited basis because only a duly-appointed fiduciary has the authority to remove the seal and handle all matters related to the apartment and its contents. Further, a fiduciary is needed immediately to tend to the accruing interest and mounting debt that are putting in jeopardy the solvency of the estate.

Accordingly, it is hereby

ORDERED that Letters of Temporary Administration on the estate of SIMONE ENDER are granted and shall issue to the Public Administrator of New York County; and it is further

ORDERED that the hearing to determine whether Monique Ender Silberman is fit to serve and should be appointed Preliminary Executor is scheduled before Surrogate Rita Mella for **March 18, 2024, at 10:00 AM, in person**, at the Surrogate’s Court located at 31 Chambers Street, Courtroom 503, New York, NY; and it is further

ORDERED that any party wishing to be heard must be prepared to present evidence, including testimony of witnesses, at the March 18, 2024 hearing; and it is further

ORDERED that any attorney appearing for Ms. Ender Silberman shall serve and file their notice of appearance as soon as possible but no later than March 1, 2024; and it is further

ORDERED that all parties that have served copies of exhibits and lists of witnesses and exhibits that they intend to adduce at trial and in accordance with the prior orders of this court, shall serve the same on any new counsel appearing for Ms. Ender Silberman no later than March 4, 2024; and it is further

ORDERED that any request for an adjournment must be made in writing prior to March 18, 2024, and must be made with the consent of all other parties who have appeared or on notice to them.

The clerk is directed to email this Decision and Order to all parties whose names and email addresses are listed below.

Dated: January 26, 2024



S U R R O G A T E

Monique Ender Silberman  
[26mees@gmail.com](mailto:26mees@gmail.com)

Peter Moulinos, Esq.  
[peter@moulinos.com](mailto:peter@moulinos.com)

Michael Calcagni, Esq.  
[mcalcagni@moritthock.com](mailto:mcalcagni@moritthock.com)

Roxanna Brahimy, Esq.  
[Roxanna.Brahimy@hklaw.com](mailto:Roxanna.Brahimy@hklaw.com)

Andrew Frisenda, Esq.  
[afrisenda@bashian-law.com](mailto:afrisenda@bashian-law.com)

Glenn Opell, Esq.  
[gopell@sgopc.com](mailto:gopell@sgopc.com)

---